

**MINUTES OF THE
JOINT CAPITAL FACILITIES & GOVERNMENT OPERATIONS
APPROPRIATIONS SUBCOMMITTEE MEETING
WEDNESDAY, JANUARY 23, 2008, 2:00 P.M.
RoomW025, West Office Building, State Capitol Complex**

Members Present: Sen. Scott K. Jenkins, Committee Co-Chair
Rep. Kevin Garn, Committee Co-Chair
Sen. Mike Dmitrich
Rep. DeMar “Bud” Bowman
Rep. Rebecca Chavez-Houck
Rep. Stephen Clark
Rep. Janice M. Fisher
Rep. Fred R. Hunsaker
Rep. Gordon Snow
Rep. Mark Walker
Rep. Bradley A. Winn

Members Absent: Sen. Darin Peterson
Sen. Sheldon Killpack

Staff Present: Steve Allred, Fiscal Analyst
Richard Amon, Fiscal Analyst
Bonnie Brinton, Committee Secretary

Public Speakers Present: Kim Hood, Executive Director, Department of Administrative Services
Ken Hansen, Assistant Director, Department of Administrative Services, Director, Administrative Rules
D. Gregg Buxton, Director, Division of Facilities Construction and Management
Curtis Clark, State Energy Manager, DFCM
Patricia Smith-Mansfield, Director, State Archives
John Reidhead, Director, Division of Finance
Doug Richins, Director, Purchasing and General Services
Dave Johnson, Director, Office of State Debt Collection

Co-Chair Garn called the meeting to order at 2:25 p.m.

1. Welcome

Co-Chair Garn welcomed everyone to the meeting.

2. Staff Presentation of Subcommittee Overview - Richard Amon, Fiscal Analyst

The Analyst distributed a handout titled "CFGGO Subcommittee Table of Contents" and discussed Budget and Issue Briefs and their contents, fees and analyst recommendations. Fiscal Analysts Richard Amon and Steve Allred responded to questions regarding the information contained in the Budget Detail Table. The total FY 2009 Base Budget is \$401,078,200.

Mr. Amon stated that the Executive Appropriations Committee will review carefully the agencies with accumulating non-lapsing funds. The Analysts explained that the Division of Finance has responsibility for monitoring spending limits for each agency and the analysts follow up with reviews of these spending limits regarding non-lapsing funds.

Analyst Amon explained the information on a handout titled "CFGGO - Department Budget Increase Summary." He stated that the grand total for FY 2009 is \$34,444,672, with 42.5 FTEs.

3. Department of Administrative Services (DAS) - Appropriated Budget - Richard Amon, Fiscal Analyst

The Analyst explained that the Legislature controls the size and scope of appropriated agencies through the budget. By law, agencies cannot spend more than they are appropriated and cannot move funds across line items, however, they may spend up to 125% of their Dedicated Credits appropriation. The total of the FY 2009 Base Budget for the Department of Administrative Services is \$28,739,600.

a. Executive Director's Office (EDO) - Kim Hood, Executive Director

The Analyst presented an overview of this Office. He noted that the EDO has gradually declined in actual FTE since FY 2002, and in 2007 there were only 4.8 FTEs, down from 11.1 FTEs in 2002. He explained that during the 2005 General Session the Legislature eliminated half of the funding for the Office of Child Welfare Parental Defense and opted to allow the DAS executive director to outsource the program. The contract with the Parental Defense Alliance of Utah is in the second year of a two-year agreement.

Mr. Amon stated that Appropriated General Funds increased in FY 2006 as the Legislature transferred \$125,000 from the Office of Child Welfare Parental Defense to the EDO for contract oversight. Beginning in FY 2006 the EDO has opted to break out the Child Welfare Parental Defense program from the rest of the EDO budget, but both are still contained in the same line item. The Analyst noted the recommendations he has made for the Legislature to consider adopting.

Executive Director Hood expressed appreciation to the Analyst and stated that she agreed with his findings.

b. Administrative Rules - Ken Hansen, Director

The Analyst explained that the Division of Administrative Rules establishes procedures for administrative rule-making, records administrative rules, and makes administrative rules available to the public. The Division also provides training to agency rule writers and administrators, performs individual consultations, publishes a periodic newsletter, and distributes the *Rulewriting Manual for Utah*.

Mr. Amon discussed the eRules application replacement. eRules is a web-enabled filing and publishing system first constructed with one-time funds between 1999 and 2001. In January 2006, the eRules system became less stable and agencies experienced problems with downtime. Furthermore Microsoft stopped supporting key software for the system. To remedy these issues the Legislature authorized the Division to spend \$55,500 from its non-lapsing balance in addition to a \$71,500 appropriation in FY 2008.

Further, the Analyst explained that during the design phase of the project, the Department of Technology Services (DTS) determined that an open source software product called Alfresco presents the best way to achieve the business objectives of the system. While the software is free, DTS does not currently have the capability to support this software necessitating a maintenance agreement with Alfresco. Mr. Amon stated that, should additional revenue become available, he would recommend an ongoing appropriation of \$15,000 from the General Fund to support the Alfresco software.

MOTION: Co-Chair Jenkins moved to approve the minutes of February 1, 2007, and January 16, 2008.

The motion passed unanimously with Rep. S. Clark absent for the vote.

MOTION: Sen. Dmitrich moved to approve the Analyst's recommendation for the DAS Executive Director's Office for a total base appropriation of \$896,600.

The motion passed unanimously with Rep. S. Clark absent for the vote.

Ms. Hood responded to questions from Subcommittee members regarding the use of the \$50,000 in nonlapsing funds designated as Current Expenses in the intent language. She stated that the majority of the money would be spent to upgrade IT types of projects. Considerable

discussion ensued regarding the amount of non-lapsing funds that should be distributed to any agency, what percentage it should be, and how the funds would be used. The Analyst noted the history of the non-lapsing funds distributed to this Office found in the *Compendium of Budget Information* on page 18.

MOTION: Sen. Jenkins moved to approve the following intent language making the FY 2008 appropriation nonlapsing but limited to uses specified in the language:

Under terms of UCA 63-38-8.1 (3), the Legislature intends not to lapse Item 35, Chapter 1, or Item 33, Chapter 371, Laws of Utah 1007. Expenditure of these funds limited to: Current Expenses - \$40,000; Child Welfare Parental Defense Contracting - \$25,000.

The motion passed unanimously with Rep. S. Clark absent for the vote.

MOTION: Rep. Snow moved to approve the GRAMA fees as listed for the entire Department of Administrative Services.

The motion passed unanimously with Rep. S. Clark absent for the vote.

Director Ken Hansen stated that he concurred with the Analyst's recommendations for the Division of Administrative Rules. He responded to questions from Subcommittee members regarding the process in the reviewing of rules which is done by the Governor's Office of Planning and Budget. He also explained the checks and balances regarding the making of rules.

MOTION: Rep. Hunsaker moved to approve the Analyst's recommendation for the Division of Administrative Rules as follows:

1. A total base appropriation of \$374,700.
2. A prioritization list of items for additional funding that could include an ongoing appropriation of \$15,000 from the General Fund to maintain the Alfresco software of the eRules system.

The motion passed unanimously with Rep. S. Clark absent for the vote.

Co-Chair Garn thanked Director Hansen for his service.

**c. Division of Facilities Construction and Management - D. Gregg Buxton,
Director**

The Analyst discussed the State Buildings Energy Efficiency Program. He stated that funding for this program comes from dedicated credits from the State's petroleum violation escrow (PVE) which is a collection of fines paid by oil companies that violated federal oil prices. In order to maximize the value of these funds, Mr. Amon recommends that they be directly appropriated to the DFCM State Building Energy Efficiency Program to fund \$1.5 million of building energy-related projects for FY 2009. In addition he recommends, if funding becomes available, \$270,000 General Fund for FY 2009 to fund two FTE that manage energy projects.

Further, the Analyst referred to an Issue Brief which stated that the Legislature declares that it is the policy of the State to (a) undertake aggressive programs designed to reduce energy use in State facilities in order to reduce the operating costs of State government and to set an example of energy efficiency for the public; and (b) utilize, to the greatest practical extent, alternative funding sources and methods of financing energy efficiency improvements in State facilities in a manner which minimizes the necessity for increased appropriations.

Mr. Amon also stated that he recommends that the Governor's Office no longer receive appropriations from the General Fund to pay for personnel costs. Instead, the Analyst recommends that the Governor's Office receive General Fund to pay the salaries, benefits, and incidental expenses of the energy advisor and her staff. This recommendation will be made to the Executive Offices Appropriation Subcommittee.

Rep. Hunsaker requested information on the use of \$1.5 million allocated last year to the energy efficiency program.

Curtis Clark, State Energy Manager, DFCM, presented handouts showing Pilot Energy Efficiency Projects in Existing Buildings, the FY 2009 Request for Energy Efficiency Projects in Existing Buildings, and High Performance Buildings/Energy Efficiency Measures in New Construction.

Co-Chair Garn stated that he would like to see additional funding distributed to this program. Rep. Hunsaker stated that he is working on a bill which will address this issue. He will work with Co-Chair Garn and the Analyst as the bill progresses.

Director Buxton stated that each new building has 1.5 percent of its budgeted funds earmarked for energy efficiency design and funding for that is never reduced or eliminated.

The Analyst stated that the Division has seen an increasing workload as capital projects have increased every year for the last several years without any increase in FTE. The number of projects has grown 29 percent from 289 projects in FY 2005 to 372 projects in FY 2008. In

order to deliver projects on time and within budget the Division has requested an additional FTE and vehicle.

Director Buxton distributed a handout showing a five-year history of Capital Development Projects Managed by DFCM, Appropriated Capital Improvement Funding, and Capital Improvement Projects Managed by DFCM. He commented on a comparison of workloads from the private sector to the workloads of his Division. The private sector has less projects per manager and pays a higher salary than the State. He stated the Division needs three more FTEs, two for the energy office and one for Capital Improvements.

Co-Chair Garn commended the Division on its exceptional accomplishments.

MOTION: Co-Chair Jenkins moved to approve the Analyst's recommendation for the Division of Facilities Construction and Management as follows:

1. A total FY 2009 base appropriation of \$5,118,000.
2. Intent language making the FY 2008 appropriation nonlapsing but limited to uses specified in the language as follows:

Under terms of UCA 63-38-8.1 (3), the Legislature intends not to lapse up to \$500,000 provided by Item 35, Chapter 371, Laws of Utah 2007. Expenditure of these funds is limited to state building energy efficiency projects.
3. An additional \$1,500,000 one-time appropriation from the Stripper Well Restricted Fund (PVE funds) for energy efficiency projects.
4. A prioritization list of items for additional funding that could include an additional \$270,000 ongoing appropriation from the General Fund for three FTEs to maintain the State Building Energy Efficiency Program.
5. Funding for one additional FTE for Capital Improvements.

Fiscal Analyst Steve Allred suggested taking the funding needed for one additional FTE for Capital Improvements from the Capital Budget and moving it to the Operating Budget.

The motion passed unanimously.

d. State Archives - Patricia Smith-Mansfield, Director

Analyst Amon stated in overview that the Utah State Archives is the repository for official records of the State and its political subdivisions. He discussed the Utah Public Notice Website and said that House Bill 222 of the 2007 General Session instituted a new website to assist the public to find posted public meeting notices of all governmental entities in the State. The bill required the Division to create and administer that site.

He explained that to help accomplish this directive, the Division received one-time funding of \$100,000 in FY 2008 to create the website. The Division, however, did not receive any ongoing funding to maintain the website. Should additional revenue become available, the Analyst recommends an ongoing appropriation of \$76,400 to enable the Division to adequately administer the website.

Director Smith-Mansfield explained the time expectation on the completion of the website.

MOTION: Co-Chair Jenkins moved to approve the Analyst's recommendation for the DAS Division of State Archives as follows:

1. A total base appropriation of \$2,614,700.
2. Intent language making the FY 2008 appropriation non-lapsing but limited to uses specified in the language as follows:

Under terms of UCA 63-38-8.1 (3), the Legislature intends not to lapse up to \$153,000 provided by Item 38, Chapter 1, or Item 36, Chapter 371, Laws of Utah 2007. Expenditure of these funds is limited to: Digitizing and microfilming significant historical documents generated by former Utah legislators and governors for preservation and access - \$20,000 - and funds for regional repositories - \$133,000.

3. Intent language stipulating that funds for regional repositories only be used for governmental entities as follows:

The Legislature intends that funds for regional repositories be used primarily to fund projects and regional repository support for governmental entities, but also intends that non-governmental entities may apply for project grants up to \$3,000, not to exceed 25 percent of the total grants awarded for any given year.

4. A prioritization list of items for additional funding that could include an additional \$76,400 ongoing General Fund to maintain the Utah Public Notice Website.

The motion passed unanimously.

e. Division of Finance - Administration - John Reidhead, Director

Analyst Amon presented an overview of the Division and stated that one of its key functions is to produce the State's Comprehensive Annual Financial Report (CAFR). Regarding workload growth, the Analyst stated that over the last eight years 76 new State funds have been created through legislation. The Division considers asking for one additional FTE for every ten new funds, however, it has not received an FTE increase in the last eight years. The Division is now requesting one additional FTE to help offset the increasing workload in the Financial Reporting program that tracks the State funds. The Analyst recommends funding one additional FTE with \$86,700 ongoing in FY 2009 from the ISF Overhead General Fund Restricted account.

Director Reidhead responded to questions from Subcommittee members and stated that he concurred with the Analyst's recommendations.

MOTION: Sen. Dmitrich moved to approve the Analyst's recommendations for the DAS Division of Finance - Administration as follows:

1. A total FY 2008 base appropriation of \$12,515,400.
2. Intent language making the appropriation non-lapsing for purposes specified as follows:

Under terms of UCA 63-38-8.1 (3), the Legislature intends not to lapse Item 39, Chapter 1, or Item 37, Chapter 371, Laws of Utah 2007. Expenditure of these funds is limited to an actuarial study of post-employment benefits and the maintenance, operation, and development of statewide accounting systems.

3. One additional FTE for the Financial Reporting program for FY 2009 with \$86,700 from the ISF Overhead General Fund Restricted account.
4. A reallocation of \$775,000 one-time from the Division's non-lapsing balance to other Subcommittee priorities.

The motion passed unanimously with Reps. S. Clark, Hunsaker and Snow absent for the vote.

Division of Finance - Mandated - John Reidhead, Director

Mr. Amon stated that this Division has three programs with an ongoing budget--the LeRay McAllister Critical Land Conservation Fund, Development Zone Partial Rebates, and Land Exchange Distribution. Regarding the Land Exchange Distribution account, the Analyst stated that the FY 2009 base budget for this program is \$3,118,700, the same amount appropriated in FY 2008, which was based on previous revenue estimates for the account. Current revenue estimates, however show a significant increase in mineral lease collections. The Analyst therefore recommends appropriating a supplemental \$15,641,300 in FY 2008 and a FY 2009 building block of \$11,281,300.

Rep. Winn asked what projects there are in rural central Utah. John Bennett, Project Manager, LeRay McAllister Fund, and the Governor's Office of Planning and Budget, listed all of those projects for the Subcommittee.

MOTION: Sen. Dmitrich moved to approve the Analyst's recommendation for the Division of Finance - Mandated as follows:

1. A total FY 2009 base appropriation of \$5,129,300.
2. A supplemental appropriation in FY 2008 of \$15,641,300 and an ongoing appropriation of \$11,281,300 in FY 2009 for the Land Exchange Distribution Account.
3. An appropriation adjustment from the Economic Incentive Restricted Account as determined by the Economic Development and Revenue Appropriations Subcommittee.

The motion passed unanimously with Reps. S. Clark and Snow absent for the vote.

f. Post-Conviction Indigent Defense Fund - John Reidhead, Director

Analyst Amon presented an overview of this program which provides funding for persons convicted of a capital crime and sentenced to death to challenge the conviction and have counsel appointed. The Division of Finance also manages two accounts that are similar to the Post Conviction Fund: The *Indigent Inmate Defense Fund* and the *Indigent Capital Defense*

Fund.

Mr. Amon discussed the recent developments of this program. In the last few months the association of criminal defense lawyers has approached the Courts with a request for a higher rate from the Division of finance, which has rule-making authority to change reimbursement rates. The current rates have not changed for several years. The attorneys ordered by the Court to represent the convicts say that the legal costs necessary to provide a defense exceed the reimbursement by the State.

Further, The Analyst stated that the program should be able to continue with carry-forward balances in FY 2009. After expending \$10,000 and lapsing \$9,400 to the General Fund in FY 2007, the fund had \$250,000 remaining in non-lapsing balances. Expenditures in the last four years have not risen above \$51,000. However, if the Division of Finance were to increase its reimbursement rates to defense attorneys, expenditures may increase significantly. At some point in the future the program's non-lapsing balance will run out, requiring additional State funding for the program. Whether that will be sooner or later will depend on the attorney reimbursement rate and the number of cases that are appealed.

The Analyst stated that as he is recommending a reduction in the Division of Finance's non- lapsing balance, the Division has requested that a portion of that reduction be reallocated to this line item.

Director Reidhead responded to questions from Subcommittee members.

MOTION: Sen. Dmitrich moved to approve the Analyst's recommendation for the Post Conviction Indigent Defense Fund as follows:

1. A total FY 2009 appropriation of \$74,000.
2. Intent language making the FY 2008 appropriation nonlapsing but limited to uses specified in the language as follows:

Under terms of UCA 63-38-8.1 (3), the Legislature intends not to lapse Item 41, Chapter 1, Laws of Utah 2007. Expenditure of these funds is limited to: Current Expenses - \$250,000.

The motion passed unanimously with Reps. S. Clark and Snow absent for the vote.

g. Judicial Conduct Commission

Fiscal Analyst Rich Amon explained that this Commission is a quasi-independent agency that investigates and resolves complaints against Utah judges.

MOTION: Co-Chair Jenkins moved to approve the Analyst's recommendations for the Judicial Conduct Commission as follows:

1. A total FY 2008 base appropriation of \$254,700.
2. Intent language making this appropriation nonlapsing for temporary contractors as needed as follows:

Under terms of UCA 63-38-8.1 (3), the Legislature intends that funds provided by Item 42, Chapter 1, Laws of Utah 2007 shall not lapse and that those funds shall be used to hire temporary contractors on an as-needed basis.

The motion passed unanimously with Reps. S. Clark and Snow absent for the vote.

h. Purchasing and General Services - Doug Richins, Director

Paul Mash, Purchasing, represented Director Doug Richins who was excused.

MOTION: Rep. Bowman moved to approve the Analyst's recommendation for the DAS Purchasing and General Services as follows:

1. A total FY 2009 base appropriation of \$1,742,200.
2. Intent language making the FY 2008 appropriation nonlapsing but limited to uses specified in the language as follows:

Under terms of UCA 63-38-8.1 (3), the Legislature intends not to lapse Item 43, Chapter 1, or Item 40, Chapter 371, Laws of Utah 2007. Expenditure of these funds is limited to: Electronic Commerce - \$50,000.

The motion passed unanimously with Reps. S. Clark and Snow absent for the vote.

i. Office of State Debt Collection - Dave Johnson, Director

Mr. Amon explained that in FY 2006 and FY 2007 the Office opted not to transfer any

money to the General Fund even though their retained earnings were much higher than usual. By the end of FY 2007 the OSDC retained earnings reached \$1,411,100 which represents almost a year's worth of reserves. Though OSDC is no longer an ISF, the standard amount of retained earnings allowed by federal auditors is sixty days' worth of reserves.

Further, in order to decrease the retained earnings to a more appropriate level, the Subcommittee reallocated \$500,000 from the OSDC retained earnings in FY 2008 to the Department of Technology Services. These funds were used to partially fund two Automated Geographic Reference Center building blocks. The Analyst recommends that another \$500,000 be reallocated out of OSDC retained earnings to other Subcommittee priorities in FY 2009.

Director Johnson expressed appreciation to the Analyst.

MOTION: Rep. Walker moved to approve the Analyst's recommendation for the Office of State Debt Collections as follows:

1. A reallocation of \$500,000 in FY 2009 from the Office of State Debt Collections retained earnings to other Subcommittee priorities.
2. Fees as listed.

The motion passed unanimously with Reps. S. Clark, Snow and Winn absent for the vote.

Co-Chair Garn distributed a list of Agency and Higher Education requests for Subcommittee members to study for discussion in later meetings. A project can be put back on the list for consideration by motion. The purpose for doing this is to use the Subcommittee's time more efficiently.

MOTION: Co-Chair Jenkins moved to adjourn the meeting.

The motion passed unanimously with Reps. S. Clark and Snow absent for the vote.

The meeting was adjourned at 4:25 p.m. by Co-Chair Garn.

The minutes were reported by Bonnie Brinton.

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Sen. Scott K. Jenkins
Committee Co-Chair

Rep. Kevin Garn
Committee Co-Chair